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DEPARTMENT OF COMMERCE

International Trade Administration

[C-570-025]

Countervailing Duty Investigation of Certain Polyethylene Terephthalate Resin from the People's Republic of China: Final Affirmative Determination

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: The Department of Commerce (the Department) determines that countervailable subsidies are being provided to producers and exporters of certain polyethylene terephthalate (PET) resin from the People's Republic of China (PRC) as provided in section 705 of the Tariff Act of 1930, as amended (the Act). For information on the estimated subsidy rates, see the "Final Determination" section of this notice. The period of investigation is January 1, 2014, through December 31, 2014.

DATES: *Effective Date:* [Insert date of publication in the *Federal Register*].

FOR FURTHER INFORMATION CONTACT: Yasmin Bordas or Emily Maloof, AD/CVD Operations, Office VI, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone (202) 482-3813 or (202) 482-5649, respectively.

SUPPLEMENTARY INFORMATION:

Background

The Department published the *Preliminary Determination* on August 14, 2015.¹ A summary of the events that occurred since the Department submitted the *Preliminary Determination*, as well as a full discussion of the issues raised by parties for this final determination, may be found in the Issues and Decision Memorandum.² The Issues and Decision Memorandum is a public document and is on file electronically *via* Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS). ACCESS is available to registered users at <http://access.trade.gov>, and is available to all parties in the Central Records Unit, room B8024 of the main Department of Commerce building. In addition, a complete version of the Issues and Decision Memorandum can be accessed directly at <http://trade.gov/enforcement>. The signed Issues and Decision Memorandum and the electronic versions of the Issues and Decision Memorandum are identical in content.

As explained in the memorandum from the Acting Assistant Secretary for Enforcement and Compliance, the Department has exercised its discretion to toll all administrative deadlines due to the recent closure of the Federal Government. All deadlines in this segment of the proceeding have been extended by four business days. The revised deadline for the final determination is now March 4, 2016.³

¹ See *Countervailing Duty Investigation of Certain Polyethylene Terephthalate Resin From the People's Republic of China: Preliminary Affirmative Determination and Alignment of Final Determination With Final Antidumping Duty Determination*, 80 FR 48819 (August 14, 2015) ("*Preliminary Determination*").

² See Memorandum from Christian Marsh, Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, to Paul Piquado, Assistant Secretary for Enforcement and Compliance, "Countervailing Duty Investigation of Certain Polyethylene Terephthalate Resin from the People's Republic of China: Issues & Decision Memorandum for the Final Determination," dated concurrently with this notice (Issues and Decision Memorandum).

³ See Memorandum to the Record from Ron Lorentzen, Acting Assistant Secretary for Enforcement & Compliance, regarding "Tolling of Administrative Deadlines As a Result of the Government Closure During Snowstorm Jonas," dated January 27, 2016.

Scope of the Investigation

The merchandise covered by this investigation is PET resin. The merchandise subject to this investigation is properly classified under subheading 3907.60.00.30 of the Harmonized Tariff Schedule of the United States (HTSUS). Although the HTSUS subheading is provided for convenience and customs purposes, the written description of the merchandise under investigation is dispositive. For a complete description of the scope of this investigation, *see* Appendix II.

The Department did not receive comments regarding the scope of this investigation.

Methodology

The Department is conducting this countervailing duty (CVD) investigation in accordance with section 701 of the Tariff Act of 1930, as amended (the Act). For each of the subsidy programs found countervailable, we determine that there is a subsidy, *i.e.*, a financial contribution by an “authority” that gives rise to a benefit to the recipient, and that the subsidy is specific.⁴ For a full description of the methodology underlying our conclusions, *see* the Issues and Decision Memorandum.

Analysis of Subsidy Programs and Comments Received

The subsidy programs under investigation and the issues raised in the case and rebuttal briefs by parties in this investigation are discussed in the Issues and Decision Memorandum. A list of the issues that parties raised, and to which we responded in the Issues and Decision Memorandum, is attached to this notice at Appendix I.

Use of Facts Available, Including Adverse Inferences

⁴ *See* sections 771(5)(B) and (D) of the Act regarding financial contribution; section 771(5)(E) of the Act regarding benefit; and section 771(5A) of the Act regarding specificity.

The Department notes that, in making this final determination, we relied, in part, on facts available and, because two respondents did not act to the best of their ability to respond to the Department's requests for information, we drew an adverse inference where appropriate in selecting from among the facts otherwise available with respect to those respondents.⁵ For further information, *see* the section "Use of Facts Otherwise Available and Adverse Inferences" in the accompanying Issues and Decision Memorandum.

Changes Since the Preliminary Determination

Based on our review and analysis of the comments received from parties and minor corrections presented at verification, we made certain changes to the respondents' subsidy rate calculations since the *Preliminary Determination*. For a discussion of these changes, *see* the Issues and Decision Memorandum.

Final Determination

In accordance with section 705(c)(1)(B)(i) of the Act, we calculated a rate for Jiangyin Xingyu New Material Co., Ltd. (Xingyu) and Dragon Special Resin (Xiamen) Co., Ltd. (Dragon), the two individually investigated exporters/producers of the subject merchandise that participated in this investigation. In accordance with sections 705(c)(1)(B)(i)(I) and 705(c)(5)(A) of the Act, for companies not individually investigated, we will determine an "all-others" rate equal to the weighted-average countervailable subsidy rates established for exporters and producers individually investigated, excluding any zero and *de minimis* countervailable subsidy rates, and any rates determined entirely under section 776 of the Act. Notwithstanding the language of section 705(c)(5)(A)(i) of the Act, we have not calculated the "all-others" rate by weight-averaging the rates of the two individually investigated respondents,

⁵ *See* sections 776(a) and (b) of the Act.

because doing so risks disclosure of proprietary information. Instead, we have calculated the all-others rate using a simple average of the final rates for the two mandatory company respondents. We intend to disclose to parties the calculations performed in this proceeding within five days of the public announcement of this final determination in accordance with 19 CFR 351.224(b).

Exporter/Producer	Subsidy Rate (Percent)
Jiangyin Xingyu New Material Co., Ltd., Jiangsu Xingye Plastic Co., Ltd., Jiangyin Xingjia Plastic Co., Ltd., Jiangyin Xingtai New Material Co., Ltd., Jiangsu Xingye Polarization Co., Ltd., Jiangsu Sanfangxiang Group Co., Ltd., Jiangyin Hailun Petrochemicals Co., Ltd., Jiangyin Xinlun Chemical Fiber Co., Ltd., Jiangyin Huasheng Polymer Co., Ltd., Jiangsu SanFangxiang International Trading Co., Ltd., Jiangyin HuaYi Polymerization Co., Ltd., Jiangyin Xingsheng Plastic Co., Ltd., Jiangyin Chemical Fiber Co., Ltd., Jiangyin Huaxing Synthetic Co., Ltd., Jiangyin Bolun Chemical Fiber Co., Ltd., (collectively, Xingyu)	6.83
Dragon Special Resin (Xiamen) Co., Ltd.; Xiang Lu Petrochemicals Co., Ltd.; Xianglu Petrochemicals (Zhangzhou) Co., Ltd.; Xiamen Xianglu Chemical Fiber Company Limited; and Dragon Aromatics (Zhangzhou) Co., Ltd. (collectively, Dragon Group)	47.56
All-Others	27.20

Continuation of Suspension of Liquidation

As a result of our affirmative *Preliminary Determination*, and pursuant to section 703(d) of the Act, we instructed U.S. Customs and Border Protection (CBP) to suspend liquidation of entries of merchandise under consideration from the PRC that were entered or withdrawn from warehouse, for consumption, on or after August 14, 2015, the date of publication of the *Preliminary Determination* in the Federal Register. In accordance with section 703(d) of the Act, we issued instructions to CBP to discontinue the suspension of liquidation for CVD purposes for subject merchandise entered, or withdrawn from warehouse, on or after December

12, 2015, but to continue the suspension of liquidation of all entries from August 14, 2015 through December 11, 2015.

If the U.S. International Trade Commission (the ITC) issues a final affirmative injury determination, we will issue a CVD order and will reinstate the suspension of liquidation under section 706(a) of the Act and will require a cash deposit of estimated CVDs for such entries of subject merchandise in the amounts indicated above. If the ITC determines that material injury, or threat of material injury, does not exist, this proceeding will be terminated and all estimated duties deposited or securities posted as a result of the suspension of liquidation will be refunded or canceled.

International Trade Commission Notification

In accordance with section 705(d) of the Act, we will notify the ITC of our determination. In addition, we are making available to the ITC all non-privileged and non-proprietary information relating to this investigation. We will allow the ITC access to all privileged and business proprietary information in our files, provided the ITC confirms that it will not disclose such information, either publicly or under an administrative protective order, without the written consent of the Assistant Secretary for Enforcement and Compliance.

Notification Regarding Administrative Protective Orders

This notice serves as the only reminder to parties subject to an APO of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a)(3). Timely written notification of the return or destruction of APO materials, or conversion to judicial protective order, is hereby requested. Failure to comply with the regulations and terms of an APO is a violation subject to sanction.

This determination is issued and published pursuant to sections 705(d) and 777(i) of the Act.

Paul Piquado
Assistant Secretary
for Enforcement and Compliance

Dated: March 4, 2016.

Appendix I

List of Topics Discussed in the Issues and Decision Memorandum

- I. Summary
- II. Background
 - A. Case History
 - B. Period of Investigation
- III. Scope of the Investigation
- IV. Application of the Countervailing Duty Law to Imports From the PRC
- V. List of Issues
- VI. Subsidies Valuation
 - A. Allocation Period
 - B. Attribution of Subsidies
 - C. Denominators
- VII. Benchmarks and Discount Rates
 - A. Short-Term RMB-Denominated Loans
 - B. Long-Term RMB-Denominated Loans
 - C. Foreign Currency-Denominated Loans
 - D. Discount Rates
 - E. MEG and PTA Benchmarks
 - F. Provision of Electricity for LTAR
- VIII. Use of Facts Otherwise Available and Adverse Inferences
 - Application of Facts Available
 - Application of Adverse Facts Available
 - Selection of the Adverse Facts Available Rate
 - Corroboration of Secondary Information
- IX. Analysis of Programs
 - A. Programs Preliminarily Determined to Be Countervailable
 - 1. Policy Loans to the PET Resin Industry
 - 2. Preferential Export Financing
 - 3. Export Seller's Credits
 - 4. Import Tariff and Value-Added (VAT) Exemptions on Imported Equipment in Encouraged Industries
 - 5. Provision of Imports for LTAR
 - 1. Provision of MEG and PTA for LTAR
 - 2. Provision of Electricity for LTAR
 - 6. Energy Savings Technology Reform
 - 7. VAT Refunds for FIEs Purchasing Domestically-Produced Equipment
 - “Other Subsidies” Reported in Initial Questionnaire Response
 - 8. 2013 Annual Incentive Funds Stable Foreign Trade Policy
 - 9. Export Credit Insurance
 - 10. Import/Export Credit Insurance/2013 Foreign Trade Policy Award
 - 11. Transition Gold Support
 - 12. Overseas Investment Discount (Jiangsu Province DOC)
 - 13. Energy Saving

14. Technology Reform Interest Subsidy
15. 2012 and 2013 Refund of Land Use Tax
16. Income Tax Deduction for New High-Technology Enterprise (HNTE)
17. Project Subsidy from Haicang Bureau of Science and Technology
 “Other Subsidies” Reported by Dragon Group
 1. Other Subsidy: Bounty for Enterprise with production and sales growth
 2. Other Subsidy: 2013 Enterprise financing subsidy
- B. Programs Preliminary Determined Not To Be Used
 18. International Market Exploration Fund (SME Fund)
 19. City Construction Tax and Education Fees Exemptions for FIEs
 20. Xiamen Municipality Support for Pivotal Manufacturing Industries
 21. Xinghuo Development Zone Recycling Economic Construction Specialized Fund
 22. Science & Technology Awards
 23. Yangpu Economic Development Zone Preferential Tax Policies
 24. Xinghuo Development Zone Industrial Structural Adjustment Fund
 25. VAT Subsidies for FIEs
 26. Provision of Land for LTAR to Enterprises in Xinghuo Development Zone, Fengxian District, Shanghai Municipality
 27. Provision of Land for LTAR to Enterprises in Yangpu Economic Development Zone, Hainan Province
 28. Allowance for Increased Export
- C. Programs With No Benefit in the POI
 29. GOC and Sub-Central Government Subsidies for the Development of Famous Brands and China World Top Brands
 30. Income Tax Deductions for Research and Development Expenses under the Enterprise Income Tax Law
- D. Final AFA Rates Determined for Programs Used by Xingyu
- E. Final AFA Rates Determined for Programs Used by Dragon Group
- X. Calculation of the All-Others Rate
- XI. Analysis of Comments
- XII. Recommendation

Appendix II

The merchandise covered by this investigation is polyethylene terephthalate (PET) resin having an intrinsic viscosity of at least 0.70, but not more than 0.88, deciliters per gram. The scope includes blends of virgin PET resin and recycled PET resin containing 50 percent or more virgin PET resin content by weight, provided such blends meet the intrinsic viscosity requirements above. The scope includes all PET resin meeting the above specifications regardless of additives introduced in the manufacturing process.

The merchandise subject to this investigation is properly classified under subheading 3907.60.00.30 of the Harmonized Tariff Schedule of the United States (HTSUS). Although the HTSUS subheading is provided for convenience and customs purposes, the written description of the merchandise under investigation is dispositive.

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